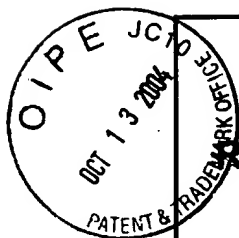


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<b>REQUEST FOR RECONSIDERATION</b>	Application #	09/883,576
	Confirmation #	7269
	Filing Date	Jun. 18, 2001
	First Inventor	Mark D. Goddard
	Art Unit	2114
	Examiner	Le, Dieu Minh T
	Docket #	2071 (P08391US00/RFH)

Commissioner for Patents  
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S I R:

In response to the Office Action mailed on August 03, 2004, reconsideration of the rejection of claims 1-25, which remain pending in the application, is respectfully requested.

**A. Rejection of Claims 1-25 under 35 U.S.C. § 103(a)**

Claims 1-25 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Engquist (U.S. Pat. 5,802,297) in view of Harris et al. (U.S. Pub. 2001/0047482 A1) (Harris). This rejection is respectfully traversed.

The system and method of the independent claims, claims 1, 7, 13 and 20, provide data backup of a server on client systems in a network where all of the data stored on the server is divided up into portions and distributed amongst the client systems. Independent claims 1 and 13 each recite "the portions of the electronic data stored on the plurality of client information systems being suitable for restoring substantially all of the electronic data stored on the server appliance." Independent claims 7 and 20 each recite "if at least one of the plurality of client information handling systems is unavailable and includes one of the portions of the electronic data, the portions of the electronic data stored on other available ones of the plurality of client

information handling systems are suitable for restoring substantially all of the electronic data stored on the server appliance."

With respect to independent claims 1 and 13, the Examiner states that Engquist substantially teaches the invention, including portions of the server appliance electronic data being transferred to and stored on the plurality of client information handling systems, but does not explicitly teach restoring the electronic data stored on the server appliance. With respect to independent claims 7 and 20, the Examiner states that Engquist substantially teaches the invention, including if at least one of the plurality of client information handling systems is unavailable and includes one of the portions of the electronic data, but does not explicitly teach restoring the electronic data stored on the server appliance. With respect to all of the independent claims, the Examiner then states that Harris explicitly discloses a system having a data management portion that is responsible for managing the physical storage device of a client computer and is responsible for backup and restore data migration from one storage device to another.

The Applicant agrees that Engquist does not teach restoring the electronic data stored on the server appliance. Engquist only teaches a system and method for implementing a cache only client-server computer configuration utilizing a local client disk drive as a data cache for a swap area and a local data cache of files recently used by each client from the root and /user file systems accessed over the network (col. 4, l. 53 to col. 5, l. 33). Thus, the only data cached on each client disk drive is data recently used by that client only. Nowhere does Engquist teach or suggest providing data backup of a server on client systems in a network where all of the data stored on the server is divided up into portions and distributed amongst the client systems. In fact, Engquist specifically teaches that system-wide computer mass storage of data,

files, application software and the like is maintained remotely from the cache only clients and is associated directly with the server only (col. 4-5, ll. 66-2). Thus, Engquist actually teaches away from the system and method of independent claims 1, 7, 13 and 20.

One of the basic tenets of patent law in rejecting a claim under 35 U.S.C. § 103 is that “the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination” (MPEP 2141, citing Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986)). Additionally, a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention (MPEP 2142.02, citing W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied 469 U.S. 851 (1984)). Thus, it is respectfully suggested that Engquist is not a proper reference for rejecting independent claims 1, 7, 13 and 20 under 35 U.S.C. § 103. There could be no motivation for one skilled in the art, when viewing Engquist as whole, to combine the teaching of storage of data, files, application software and the like remotely from the clients and directly on the server only, with Harris, or any other reference, in order to arrive at the instant invention's approach of distributed backup of the server data on the clients. Only with the use of impermissible hindsight afforded by the instant application would one apply the cache only client-server computer configuration of Engquist for backup of all of the data stored on the server distributed in portions amongst the clients in the network.

However, even if Engquist is viewed as a proper reference, neither Engquist or Harris, viewed alone or together, teach or suggest the system and method of independent claims 1, 7, 13 and 20 of providing data backup of a server on client

systems in a network where all of the data stored on the server is divided up into portions and distributed amongst the client systems. Harris teaches a system and method for managing storage resources associated with a network having at least one storage resource coupled to at least one server and at least one client where the client directs I/O requests to the storage resources and redirects I/O requests to the server upon the detection of a failure condition (par. [0008] – [0012]). Nowhere does Harris teach or suggest providing data backup of a server on client systems in a network where all of the data stored on the server is divided up into portions and distributed amongst the client systems.

The Examiner states that, “Harris does explicitly disclose [the] capability of: - A method and system for managing storage resources associated with a network having [a] storage resource coupled to [a] server and at least one client (abstract, col. 1, par. 0001) comprising: - [a] data management portion ... responsible for managing the physical data storage devices including client computer and computer physical device (col. 6, par. 003).”

Applicant respectfully disagrees. Harris strictly deals with client direction of I/O requests to the network storage resources or the server. Harris describes a storage area network (SAN) interconnecting different kinds of storage resources with associated data servers on behalf of a larger network of users represented by client computers. The storage resources are usually implemented using physical data storage configurations such as Redundant Arrays of Inexpensive Disks, simple disk arrays, and complex disk subsystems. The data servers manage the storage resources using a traditional volume manager comprising a data access portion and a data management portion. The data management portion is responsible for managing the physical data

storage devices including abstracting the physical device and presenting to the client computer user a logical unit of storage called a volume. The data management portion also is responsible for backup and restore, data migration from one storage device to another, and the sharing of data. (par. [0003]). Nowhere in the abstract, par. [0001], par. [0003], or anywhere else does Harris teach or suggest the data management portion managing the client computers and client computer physical storage devices, as suggested by the Examiner. Thus, nowhere does Harris teach or suggest providing data backup of a server on client systems in a network where all of the data stored on the server is divided up into portions and distributed amongst the client systems.

In summary, neither Engquist or Harris, viewed together or alone, teach or suggest a system or method for providing a backup of electronic data of a server appliance, as in independent claims 1 and 13, wherein portions of the electronic data stored on the server appliance are transferred over the network and stored on the plurality of client information handling systems, the portions of the electronic data stored on the plurality of client information handling systems being suitable for restoring substantially all of the electronic data stored on the server appliance. Further, neither Engquist or Harris, viewed together or alone, teach or suggest a system or method for providing backup of electronic data of a server appliance, as in independent claims 7 and 20, wherein portions of the electronic data stored on the server appliance are transferred over the network and stored on the plurality of client information handling systems such that, if at least one of the plurality of client information handling systems is unavailable and includes one of the portions of the electronic data, the portions of the electronic data stored on other available ones of the plurality of client information

handling systems are suitable for restoring substantially all of the electronic data stored on the server appliance.


Accordingly, independent claims 1, 7, 13 and 20 all define over Engquist and Harris, alone or together. The remaining claims all depend from the independent claims and, thus, are patentable for at least the reasons set forth above in support of the patentability of the independent claims. Therefore, it is respectfully suggested that the rejection of claims 1 – 25 under 35 U.S.C. § 103(a) as being unpatentable over Engquist in view of Harris can be properly withdrawn.

### **B. Conclusion**

It is respectfully urged that the instant application is in condition for allowance. However, if the Examiner believes that there are unresolved issues, the Examiner is respectfully invited to contact the Applicant's attorneys-of-record to discuss the issues.

Respectfully submitted,

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Dated: October 13, 2004

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